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Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on his mission to Uruguay

Note by the Secretariat*

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, on his country visit to Uruguay from 24 to 28 April 2017. During the visit, the Special Rapporteur identified good practices and considered the challenges the country faces in the promotion and protection of human rights related to the environment.

* The present report was submitted after the deadline in order to reflect the most recent developments.

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Report of the Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment on his mission to Uruguay**

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** Circulated in the language of submission and Spanish only.

I. Introduction

1. The Special Rapporteur on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment, John H. Knox, visited Uruguay from 24 to 28 April 2017, at the invitation of the Government. The purpose of the visit was to examine how Uruguay is implementing its human rights obligations relating to environmental protection, to identify good practices and to consider the challenges the country faces in the promotion and protection of environmentally related human rights.

2. The Special Rapporteur expresses his gratitude to the Government for its invitation and for its cooperation in the preparation of and throughout the visit. During his visit, he met with the Vice-President of the Republic, Raúl Sendic; the President of the Supreme Court of Justice, Jorge O. Chediak; the Minister of Housing, Land Management and the Environment, Eneida de León; the Undersecretary of Foreign Affairs, José Luis Cancela; the Secretary of the Office of the President for Human Rights, Nelson Villarreal; the Secretary of the Office of the President for the Environment, Water and Climate Change, Carlos Colacce; the Chair of the National Human Rights Institution, Ariela Peralta Distefano; and many other government officials, members of Parliament, representatives of civil society organizations, academics and members of the business sector.

3. During a one-day field visit to communities in the Santa Lucía river basin, the Special Rapporteur met with members of a women's community association dedicated to replanting native plants, another women's association conducting outreach activities, owners of an ecotourism lodge, dairy farmers using innovative sanitation technologies and volunteers who were replanting native trees and building fences to shield the Paso Severino reservoir, which provides water to Montevideo.

4. The Special Rapporteur thanks the United Nations Resident Coordinator and the country team in Uruguay for their valuable support prior to and during the visit. He warmly thanks every individual he met for their hospitality and openness in sharing their experiences with him.

II. Legal and institutional frameworks

A. Legal framework

1. International legal framework

5. Uruguay is a party to many international human rights treaties, including the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights. Since 2013, it has been a party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, which allows individuals or groups of individuals to submit communications alleging violations of the rights protected under the Covenant. In 2009, during its universal periodic review, Uruguay committed to ratifying the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169).

6. Uruguay has also become a party to many multilateral environmental agreements, including the United Nations Framework Convention on Climate Change, the Convention on Biological Diversity, the Montreal Protocol on Substances that Deplete the Ozone Layer, the Stockholm Convention on Persistent Organic Pollutants and the Minamata Convention on Mercury. In 2015, Uruguay was elected Chair of the Standing Committee of the Conference of the Parties to the Ramsar Convention on Wetlands for 2015–2018. Uruguay played a significant role in the negotiation of the Paris Agreement, which it ratified on 19 October 2016. At the regional level, it is actively participating in the negotiation of an instrument on rights of access to information, public participation and access to justice in environmental matters.

2. Domestic legal framework

7. The Constitution of Uruguay (art. 47) enshrines the protection of the environment as a matter of public interest, and provides that people should abstain from any act that "causes grave depredation, destruction or contamination to the environment". The Constitution codifies human rights relevant to environmental protection, including the right to life (art. 7), the principle of non-discrimination (art. 8), the right to freedom of expression (art. 29) and the rights of access to drinking water and sanitation (art. 47).

8. The Law on Environmental Protection, No. 17.283 (2000), recognizes the right of individuals to a healthy and balanced environment (art. 2). It elaborates on article 47 of the Constitution by stating that the protection of air quality, water quality, soil and landscape quality, the conservation of biological diversity, the reduction of toxic chemicals and the prevention, elimination, mitigation and compensation of adverse environmental effects are also matters of public interest (art. 1). It provides that it is a fundamental duty of the State to promote a model of environmentally sustainable development, protecting the environment and, if it has been degraded, requiring its restoration (art. 4).

9. Many other Uruguayan laws and regulations are relevant to environmental protection.[1] For example, Laws No. 15.239 (1981) and 18.564 (2009) regulate the use and conservation of soil and water, and Law No. 13.663 (1968) addresses the production, import and export of fertilizers. Companies that handle chemical substances must comply with Decree No. 307/2009, which requires that they prepare safety data sheets that follow the guidelines of the Globally Harmonized System of Classification and Labelling of Chemicals. Law No. 16.466 (1994) provides the legal framework for environmental impact assessments. It requires prior environmental authorization for listed activities and works, including the construction of roads, the extraction of minerals or fossil fuels and the exploitation or regulation of water resources. Law No. 18.381 (2008) guarantees the right of individuals to have access to public information, without discrimination on grounds of nationality or any other status.

10. In January 2016, Uruguay finalized its National Strategy for the Conservation and Sustainable Use of Biodiversity, 2016–2020, to address the main problems and drivers associated with biodiversity loss and degradation in the country, in light of the expanding and intensifying use of natural resources. The Strategy identifies eight themes: conservation and sustainable use of biodiversity; sectoral incorporation of biodiversity considerations; education, communication and dissemination of information regarding conservation; knowledge generation; information management; regulatory framework updating; strengthening of participation and access to benefits; and resource mobilization.[2]

B. Institutional framework

11. The Ministry of Housing, Land Management and the Environment is the main institution overseeing environmental protection in Uruguay. It formulates and enforces national laws and policies for the protection of the environment. It is composed of five national directorates: the National Environment Directorate, the National Water Directorate, the National Land Management Directorate, the National Housing Directorate and the Directorate-General of the Secretariat. The National Environment Directorate is in charge of formulating, implementing, monitoring and evaluating national plans for the protection of the environment, and for proposing and implementing the national policy on environmental protection, in the framework of sustainable development. The National Water Directorate has the mandate to regulate and monitor activities relating to water.

12. The National Water Supply and Sanitation Company is responsible for providing water services throughout the country and sanitation services in all departments except

[1] Environmental laws are available on the website of the Ministry of Housing, Land Management and the Environment, www.mvotma.gub.uy/evaluacion-de-impacto-ambiental/itemlist/category/147-leyes.html.

[2] Available at www.cbd.int/doc/world/uy/uy-nbsap-v2-es.pdf.

Montevideo. The Regulatory Authority for Energy and Water Services is a regulatory agency that oversees the water and electricity sectors and protects the rights of users of these services.

13. In June 2016, Decree No. 172/016 established the National Environmental System, which brings the Office of the President together with environmental agencies, the National Water Supply and Sanitation Company, the Uruguayan Meteorological Institute, the National System for Response to Climate Change and Variability and the National Emergency System, in order to strengthen, articulate and coordinate public policies related to the environment. Decree No. 172/016 also created the National Environmental Cabinet and gave it a mandate to propose integrated, cross-sectoral public policies for environmental protection. The Cabinet is composed of the Office of the President, the National Environment, Water and Climate Change Secretariat, the Ministry of Housing, Land Management and the Environment and several other ministries, including those with responsibility for defence, finance, public health, agriculture and mining. The National Environment, Water and Climate Change Secretariat has a mandate to provide technical and operational support to the National Environmental Cabinet and supervise the implementation of public policies relating to the environment.

14. Created within the National Environment Directorate, with the participation of the National Water Directorate and other pertinent agencies, the National Environmental Observatory has the authority to consolidate, update and disseminate environmental information. It is tasked with giving special consideration to a number of indicators, including the identification of mechanisms that ensure public participation in environmental matters. Its first implementation phase took place in June 2017.

15. The National System of Response to Climate Change and Variability was created by Decree No. 238/09, in order to coordinate and plan the public and private actions necessary for risk prevention, mitigation and adaptation to climate change. It is led by the Ministry of Housing, Land Management and the Environment, with the participation of other ministries and the Congress of Mayors. It has an advisory commission composed of representatives of academic, technical and research entities.

16. The Ministry of Housing, Land Management and the Environment and the Secretary of the Office of the President for Human Rights signed a cooperation agreement in June 2016, in order to strengthen links between the two agencies. The Government states that the agreement should help to incorporate a human rights perspective into environmental policies.

17. The National Human Rights Institution, which was created by Law No. 18.446, promotes and monitors the integration of human rights norms and standards in national laws, public policies and administrative practices. Although its mandate does not explicitly mention environmental concerns, the Institution has addressed environmental issues. In 2016, it convened a seminar on the right to health and the use of chemicals in the agriculture sector, and it has received and considered individual submissions alleging environmentally related human rights abuses. On World Environment Day, 5 June 2017, the Institution issued a statement noting the links between the right to live in a healthy environment and the effective exercise of many other human rights, such as the rights to life, health, water and food, and pointing out that States have specific obligations in relation to guaranteeing the effective enjoyment of the right to a healthy environment, as well as access to environmental information, public participation in decision-making processes related to the environment, and access to judicial and administrative procedures for the prevention and restitution of environmental harm.[3]

[3] The statement is available, in Spanish only, at http://inddhh.gub.uy/en-el-dia-internacional-del-medioambiente/.

III. Environmental conditions

18. The total population of Uruguay is 3.3 million, of which more than one half live in and around the capital, Montevideo. Uruguay is located in a region that includes temperate grasslands, wetlands, native forests and bodies of water, including coastal lagoons.

19. Compared to most countries, Uruguay does not have high levels of air pollution. The World Health Organization (WHO) reports that the annual levels of fine particulate matter ($PM_{2.5}$) in Uruguay are within a range of 8 to 17 $\mu g/m^3$ with a median of 11 $\mu g/m^3$.[4] Although WHO emphasizes that particulate pollution can affect human health even at very low concentrations, its air quality guidelines suggest an annual mean of no higher than 10 $\mu g/m^3$. The levels of such pollution in Uruguay are thus close to the target, although they could be improved further.

20. Uruguay has biodiverse ecosystems and species. Its territory is the southernmost extent of the range of many species, and it hosts a significant number of migratory species, especially migratory birds. Natural grasslands cover about 60 per cent of the country; together with the neighbouring regions in Argentina and Brazil, they form one of the largest temperate grasslands in the world. In Uruguay, the grasslands ecosystem includes approximately 2,000 species of herbaceous plants, of which 400 are grasses.[5] Its wetlands, which cover approximately 12 per cent of its territory, act as natural regulators and filters of the hydrological system and provide habitat for a wide range of birds and other species, including otters and capybara.[6] Areas of native forest have grown over the past 25 years from 3.5 per cent to 6 per cent of the national territory.[7] Nevertheless, Uruguay has one of the lowest percentages of protected areas in the Latin American and Caribbean region. Only 0.8 per cent of its territory is included in its National System of Protected Areas. In addition, Uruguay reports that 29 per cent of the species in the country are under some level of threat.[8]

21. Agriculture is a key part of the economy, and much of the territory is occupied by farms and ranches. Exports of agricultural products, led by beef and soy, make up about three quarters of total exports, and Uruguay plans to expand its production of crops and livestock. The intensification of land use poses serious environmental challenges to the health of the grasslands and to water quality.[9]

22. The major rivers in the country include the Uruguay, which joins with the Paraná to flow into the Río de la Plata estuary, and the Santa Lucía. The Santa Lucía basin, which includes a reservoir formed by the Aguas Corrientes dam, provides drinking water for the people living in and around Montevideo, who constitute approximately 60 per cent of the population. In 2012, the Special Rapporteur on the human right to safe drinking water and sanitation, Catarina de Albuquerque, visited Uruguay and reported that some livestock agribusinesses, including dairy farms, were having negative impacts on water resources through the discharge of agrochemicals and faecal waste, mainly from pigs and cows (see A/HRC/21/42/Add.2, para. 54).

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[4] World Health Organization, *Ambient air pollution: A global assessment of exposure and burden of disease* (2016), pp. 19 and 62. Fine particulate matter is the most closely studied type of pollutant, and it is often used as a proxy to indicate levels of exposure to air pollution generally. With diameters of 2.5 micrometres or less, fine particulates can penetrate into the lungs and cause adverse short-term and long-term effects on human health.

[5] "Estrategia Nacional para la Conservación y Uso Sostenible de la Diversidad Biológica del Uruguay 2016–2020" (National Strategy for the Conservation and Sustainable Use of the Biological Diversity of Uruguay 2016–2020), p. 15. Available, in Spanish only, at www.cbd.int/doc/world/uy/uy-nbsap-v2-es.pdf.

[6] Ibid.

[7] Convention on Biological Diversity, "Uruguay country profile", available from www.cbd.int/countries/profile/default.shtml?country=uy#facts.

[8] "Estrategia Nacional para la Conservación y Uso Sostenible de la Diversidad Biológica del Uruguay 2016–2020", p. 17.

[9] See Convention on Biological Diversity, "Uruguay country profile".

23. In 2013, a report from an environmental organization stated that over 90 per cent of the rivers in Uruguay suffered from excessive levels of nutrients such as phosphorous and nitrogen, the result of agricultural fertilization.[10] On more than one occasion in the past, pollution of water in the Santa Lucía basin, in particular, has affected the quality of the drinking water in Montevideo. In March 2013, for example, algae contamination in the Santa Lucía basin, apparently caused by nutrient pollution, affected the colour and taste of drinking water in Montevideo, greatly increasing public concerns about the effects of agricultural pollution on water quality.

24. The Government and people of Uruguay are aware of the challenges posed by the intensification of agricultural and livestock production. In 2016, in its proposal for a National Water Plan, the Ministry of Housing, Land Management and the Environment recognized that increased agricultural production meant more pressure on water quality due to intensive land use.[11] In the same report, the Ministry identified as a potential threat the intensification of agriculture, as it could increase diffuse pollution.[12] The final National Water Plan, which was approved by Decree No. 205/017 on 31 July 2017, supports integrated management of the water resources of the country, including by preventing and mitigating environmental and other impacts on the quantity and quality of the water.

25. Even before the National Water Plan was adopted, the Government had adopted measures to improve the protection of the Santa Lucía basin, some of which the Special Rapporteur saw first-hand. For example, he viewed fences installed around reservoirs to prevent livestock from approaching the water bodies, and met family dairy farmers who have received support from the Government in adopting innovative methods of managing waste in order to protect against run-off. He also met volunteers who were replanting native trees around reservoirs in the basin to help protect against run-off and erosion, and members of a women's community association who were working to revive native plants in the area.

IV. Good practices and challenges

26. Uruguay has many good practices in relation to human rights and the environment, reflecting an overall commitment to respecting and protecting human rights in its environmental policies. At the same time, like other countries, Uruguay faces challenges in implementing human rights obligations relating to the environment. This section describes good practices and challenges in four areas that were discussed by many interlocutors during the visit: (a) climate change; (b) access to information; (c) public participation in decision-making; and (d) access to effective remedies.

A. Climate change

27. Climate change threatens the full enjoyment of many human rights, as the Special Rapporteur has previously explained (see A/HRC/31/52). As average global temperatures rise, deaths, injuries and displacement of persons from climate-related disasters such as tropical cyclones increase, as do mortality and illness from heat waves, drought, disease and malnutrition. The worst effects of climate change are often felt by those who are already in vulnerable situations, including because they are living in poverty or belong to marginalized populations. Global warming causes sea levels to rise, threatening the very existence of small island States and coastal communities. Uruguay is particularly vulnerable to climate change along its lengthy coastline, where much of its population lives

[10] Katherine Watkins, "Around 94% of Uruguay's rivers suffer from contamination – report", 11 September 2013. Available at www.bnamericas.com/news/waterandwaste/94-of-uruguays-rivers-suffer-from-contamination-report.

[11] *Propuesta del Plan Nacional de Aguas*, p. 259. Available, in Spanish only, at www.mvotma.gub.uy/images/slides/PNA%202017%20propuesta%20PE.pdf.

[12] Ibid., p. 241.

in low-lying areas. Rising seas and increasing frequency and severity of storms threaten increased flooding, soil contamination and the loss of wetlands, among other problems.

28. Because climate change is caused principally by burning fossil fuels, which releases carbon dioxide into the atmosphere, the fight against climate change requires countries to shift to other sources of energy. Over the past decade, Uruguay has become a leader in this effort. Its shift to renewable energy has been motivated not only by environmental concerns, but also by economic considerations, including a desire to be less dependent on energy sources in other countries.

29. In 2008, Uruguay began to pursue a national long-term strategy to reduce its dependence on fossil fuels and to increase the use of renewable energy. At the time, its sources of energy were primarily oil and its derivatives.[13] Its comprehensive National Energy Plan for 2005–2030 received support from all political parties with representation in Parliament, and was ratified by Parliament in 2010. Its principal goals were to diversify the energy mix of sources and suppliers, to reduce costs resulting from dependence on fossil fuel and to increase the use of renewable energy.[14] The National Energy Plan has surpassed its initial targets. Over 96 per cent of electricity in Uruguay now comes from renewable resources. In 2016, some 56 per cent of the electricity was from hydroelectric sources, 22 per cent from wind power, 18 per cent from biomass, 1 per cent from solar and only 3 per cent from fossil fuels. Uruguay has achieved this result through a variety of different policies, including providing specific tax incentives for sources of renewable energy.

30. Uruguay is an inspiring example of how a country can replace fossil fuels with renewable energy. The Special Rapporteur encourages the Government to continue to promote its experience in international and regional forums. While Uruguay continues to face challenges in this area, including with respect to emissions from transportation, it can help to lead global discussions on how renewable energy policies support sustainable development and mitigation of climate change.

31. Because the effects of climate change on Uruguay are driven by global emissions, which are still rising, climate change will continue to affect Uruguay for years to come. As a result, Uruguay, like other countries, has to develop and implement effective adaptation plans. In its planning, Uruguay has addressed persons who are in particularly vulnerable situations, including by developing plans to relocate persons from flood-prone and/or polluted areas. At the time of the Special Rapporteur's visit, Uruguay was in the process of developing national adaptation plans for the agricultural sector, as well as for cities and coastal zones. The Government plans to release all of these plans by 2019. Uruguay is also working with the World Bank on a project aimed at reducing emissions from deforestation and forest degradation by protecting native forests, which are important sinks for carbon dioxide.

32. The National Climate Change Policy to implement the Paris Agreement was also under discussion at the time of the Special Rapporteur's visit. The Policy received support from the National Environmental Cabinet on 27 April 2017 and was approved on 3 November 2017 by Decree No. 310/017. According to the information received during the visit, over 100 stakeholders participated in the drafting process. The first paragraph of the policy provides that one of its objectives is to contribute to the sustainable development of the country, with a global perspective of intra- and intergenerational equity and human rights, making a direct link between human rights, sustainable development and environment protection.

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[13] See Ministerio de Industria, Energia y Mineria, "Sector energético en Uruguay". Available, in Spanish only, at www.dne.gub.uy/invierta-en-energia-en-uruguay/-/asset_publisher/G1lQ59b7RjDv/content/sector-energetico-en-uruguay.

[14] See Dirección Nacional de Energia y Tecnologia Nucelar, "Politica energética 2005–2030". Available, in Spanish only, at www.miem.gub.uy/documents/49872/0/Pol%C3%ADtica%20Energ%C3%A9tica%202030?version=1.0&t=1352835007562.

B. Access to information

33. One fundamental aspect of protecting human rights in the environmental context is the implementation of the right to information about environmental problems and policies. The Universal Declaration of Human Rights (art. 19) and the International Covenant on Civil and Political Rights (art. 19) recognize the right of all persons "to seek, receive and impart information". The right to information is not only a human right itself; like the right to public participation, it also supports the full enjoyment of other rights, including the rights to life and health. International human rights bodies have recognized that access to environmental information is necessary to protect human rights, including the rights to life and health, from infringement through environmental harm.

34. Access to environmental information has two dimensions (see A/HRC/37/59, annex, framework principle 7). First, States should regularly collect, update and disseminate environmental information, including information about environmental quality, pollutants and other environmental threats, and relevant laws and policies. In situations involving imminent threats, in particular, States must ensure that all information that would enable the public to take protective measures is disseminated immediately. Second, States should provide affordable, effective and timely access to environmental information held by public authorities, upon the request of any person or association, without the need to show a legal or other interest. Grounds for refusal of a request should be set out clearly and construed narrowly, in light of the public interest in favour of disclosure.

35. In Uruguay, the Ministry of Housing, Land Management and the Environment is required by Law No. 17.283 (art. 12) to prepare an annual report on the environmental situation, which should include information systematized by thematic areas. By providing general environmental information to the public, the report enables concerned persons to participate in environmental decision-making. Through a number of indicators, the report also allows for the monitoring of the state of the environment with a view to confirming or, where necessary, correcting the application of environmental protection. However, the report has not always been regularly published. The most recent report was issued in 2013.[15] According to the information received, the next report will be released in 2018 and made available by the National Environmental Observatory.

36. The Ministry of Housing, Land Management and the Environment also seeks to provide environmental information through its website. The website includes an online guide,[16] which allows the public to access in an interactive manner the national environmental report. Through the website, individuals may also access other practical information, including actions taken by the authorities to protect the environment, contact details of various actors in the field and information about actions that people may take to contribute to environmental protection. Another online tool developed by the Ministry is the Environmental Visualizer, which provides Internet users with the opportunity to click on a map of Uruguay to zoom in and access very detailed information about water quality, air quality, and protected areas, among others, in any part of the country.[17]

37. Law No. 18.381 on access to public information provides for a detailed administrative procedure to facilitate access to public information. Underlining that access to public information is a right of all, the law makes clear that individuals can exercise it without the need to justify why they are requesting particular information (art. 3). In particular, the Special Rapporteur welcomes the fact that when the requested information is related to human rights violations or is pertinent to investigating, preventing or avoiding such violations from happening, limitations on access to public information cannot be invoked (art. 12).

38. However, the Special Rapporteur heard criticisms of several aspects of the system of environmental information. For example, some observers have pointed to an absence of

[15] See www.mvotma.gub.uy/portal/ciudadania/biblioteca/documentos-de-ambiente/item/10006608-informe-del-estado-del-ambiente-2013.html.

[16] See www.mvotma.gub.uy/guiaambiental/.

[17] See www.mvotma.gub.uy/visualizador.

sufficient research on the links between environmental problems and health problems. In addition, some civil society representatives have stated that access to information is not always effective, for several reasons, including that the relevant documents may be too technical to be easily understood, and that they are often difficult to find. In particular, the Special Rapporteur heard from multiple interlocutors, within and outside the Government, that it is sometimes very difficult to determine which agency is responsible for providing the requested information. While the Ministry of Housing, Land Management and the Environment and others have adopted methods through which individuals can access information, the large number of agencies that may have relevant mandates can make it difficult for the public to know which agency is responsible, and even for the agencies themselves to share information with one another.

39. Effective access to information requires measures to provide information in forms that are easily accessible and understandable by the general public. In particular, it requires the provision of information that allows the public to become aware of potential environmental risks and of recommendations for protecting themselves. The Government could better coordinate the many different government sources of relevant information and make the information more easily accessible. For example, the public should be able to readily find understandable information about water quality, both at the tap and in lakes and rivers. Additional measures may be necessary to make environmental information accessible to those who are in particularly vulnerable situations or who are susceptible to environmental harm, including people living in poverty, so that they can have a voice in the development and implementation of policies and programmes affecting their lives. In addition, disaggregating environmental and health data across dimensions such as geography, gender and age facilitates measuring progress and determining appropriate follow-up processes in a more efficient and effective manner.

40. Access to information about water quality is of particular concern in Uruguay. Civil society representatives the Special Rapporteur met during his visit expressed their concerns that the public had not received full information about water quality in the past, including during the 2013 crisis of confidence in the quality of drinking water in Montevideo (see paragraph 23 above). The Government informed the Special Rapporteur of its efforts to improve its provision of information on the quality of water in the Santa Lucía basin, including a number of reports published by the Ministry of Housing, Land Management and the Environment on its website.[18] The Government has instituted monthly monitoring of water quality in the basin at 15 stations, with the support of the Faculty of Science of the University of the Republic, and is also monitoring water quality in the Laguna del Sauce basin (the main source of drinking water in the department of Maldonado), and the Río Negro basin. As agricultural and economic activity in the water basins continues to increase, the rapid dissemination of reliable information to the public is critical to ensuring that they have confidence in the quality of their water, both in the rivers and basins and at the faucet.

41. Similarly, information relating to large-scale development projects should be made publicly available and accessible (see A/68/262, para. 62). During his visit, the Special Rapporteur heard concerns that decisions to approve large infrastructure projects, often involving foreign investment, occur outside the framework of social and environmental assessment. The Special Rapporteur reminds the Government that such proposals should be assessed in accordance with applicable laws and human rights obligations (see A/HRC/37/59, annex, framework principle 8). In particular, it should provide meaningful opportunities for the public to participate and result in public reports that clearly describe the proposals, the alternatives and the possible environmental impacts. To protect against interference with the full enjoyment of human rights, the assessment of environmental impacts should also examine the possible effects of the environmental impacts of proposed projects and policies on the enjoyment of all relevant rights, including the rights to life, health, food, water, housing and culture.

[18] For instance, one tab of the Environmental Visualizer provides web users with direct access to information on the state of the environment in the Santa Lucía river and in the Paso Severino reservoir.

42. In light of its mandate to gather, update and disseminate environmental information, the newly established National Environmental Observatory has an important role to play in ensuring that information about environmental quality, including water quality, and about proposals for major projects is made publicly available.

43. Publicizing information online is a valuable way to disseminate information to a large number of people, but it has its limitations. Not everyone has easy access to online information, and the information may not always be adequate to address particular issues. Therefore, to be effective, the provision of environmental information should extend to include programmes to raise awareness of environmental issues through on-site training sessions, especially in remote areas. For example, the Special Rapporteur was informed by the National Water Directorate that in rural areas, some teachers are receiving training about the use of technical equipment to monitor water quality, and are being provided with information about how to contact the authorities in case problems arise. This good practice in informing and training members of local communities helps to ensure that they can provide valuable information to others in their communities and beyond.

C. Public participation in environmental decision-making

44. The right of everyone to take part in the government of their country and in the conduct of public affairs [19] includes participation in decision-making related to the environment, including the development of policies, laws, regulations, projects and activities. Ensuring that these environmental decisions take into account the views of those who are affected by them increases public support, promotes sustainable development and helps to protect the enjoyment of rights that depend on a safe, clean, healthy and sustainable environment (see A/HRC/37/59, annex, framework principle 9). To be effective, public participation must be open to all members of the public who may be affected and must occur early in the decision-making process. States should provide for the prior assessment of the impacts of proposals that may significantly affect the environment, and ensure that all relevant information about the proposal and the decision-making process is made available to the affected public in an objective, understandable, timely and effective manner.

45. The Law on Environmental Protection, No. 17.283, affirms that environmental protection affects the society as a whole and that people and representative organizations have the right and the duty to participate in the process (art. 6 (d)). Uruguay has a number of institutions that facilitate public participation in decision-making, including environmental decision-making.

46. Uruguay has National Advisory Commissions, which include representatives from the Government, the private sector, academia, organized workers and civil society organizations, among others, and which provide advice to the Government on various issues. The first of these commissions concerning environmental matters, the Technical Advisory Commission for the Protection of the Environment and the Advisory Commission on Land Management, were established in the 1990s. In the 2000s, other commissions were created, including the National Commission for Protected Areas and the Advisory Commission on Water and Sanitation. Over the years, these commissions have become multisectoral spaces for discussion, contributing to the elaboration of normative regulations and management plans in various sectors. Since 2012, three regional committees on water resources and nine watershed and aquifer commissions, each of them with tripartite representation (government, civil society and users), have been established to incorporate participation of local stakeholders.

47. Uruguay has other important mechanisms for public participation in environmental decision-making. For example, the Manifest is an online platform for the dissemination of information, through which citizens can make written contributions and comments. Maintained by the Ministry of Housing, Land Management and the Environment, this

[19] Universal Declaration of Human Rights, art. 21; International Covenant on Civil and Political Rights, art. 25.

mechanism facilitates public input into the environmental impact assessment procedure. Under its framework, an Environmental Report Summary with a succinct description of proposed projects is made available to the public (see Decree No. 349/2005). Public hearings provide information to the public and provide a mechanism for receiving public inputs about proposed projects, with a view to advising the Ministry in its decisions to adopt or reject the projects. These two mechanisms may also be triggered for proposals to add new areas to the National System of Protected Areas, or when new instruments related to environmental planning are developed. Monitoring commissions allow public participation in environmental monitoring and control.

48. A particularly interesting practice is the Open Council of Ministers. From time to time, the Ministers hold open sessions outside the capital, including in small towns and rural areas, at which the public can raise complaints and questions. Although these meetings are not limited to environmental issues, they provide another opportunity for the public to bring such issues directly to the attention of high-ranking officials in the Government.

49. Public participation is important in the development of new national strategies and policies. A recent example is the adoption by Uruguay of a National Water Plan, first proposed in draft form in June 2016. According to information provided by the National Water Directorate, between July 2016 and March 2017, about 2,000 participants commented on several iterations of the plan, at meetings held in the capital and in the countryside. In addition, early in the process a group of 15 individuals, of diverse ages and backgrounds, were brought together to discuss the draft plan, in a process overseen by experts from the University of the Republic. The Special Rapporteur was informed that the process had succeeded at incorporating a wide range of views into the final version of the Plan. Academics from the University of the Republic expressed their support for the process and their willingness to help to oversee such procedures in other settings, although they cautioned that additional resources might be necessary in order for them to continue to play that role.

50. However, some civil society representatives told the Special Rapporteur that they had been invited to participate only at a late stage of the development of the Plan and felt that they had had limited influence. Some expressed concerns at the selection process for participation, noting that some participants had been directly selected by the authorities, which left other relevant stakeholders out of the discussion. Others regretted that the consultative process was too limited, either because the subject matter discussed was too narrow or too technical and the time allocated for consultations too short, or because there was a perception that the decisions had already been taken even before the consultation took place.

51. At the time of the Special Rapporteur's visit, the Government was in the process of developing a new National Environment Plan for Sustainable Development, to cover the period until 2030. The Government is now in the process of receiving contributions to the Plan, within the framework of the National Environmental Cabinet with the assistance of the National Environment, Water and Climate Change Secretariat. The University of the Republic is involved in the design and implementation of avenues for the participation of civil society, and the Plan will also be considered by the National Advisory Commissions of the Ministry of Housing, Land Management and the Environment. The National Human Rights Institution informed the Special Rapporteur that, as part of the consultation process, it had been approached by the authorities to ensure the integration of human rights into the Plan.

52. Public participation is critical in relation not only to the development of new policies, but also to specific proposals. Consideration of the environmental impacts of proposed projects, for example, must include adequate opportunities for members of the public, particularly those who may be directly affected, to participate, and the views of the public must be taken into account in final decisions.

53. The Special Rapporteur received reports of concerns from individuals and civil society organizations about a mining project near Quebrada de los Cuervos, the site of an important ecosystem that provides habitat for vulnerable species, including the saffron-

cowled blackbird (*Xanthopsar flavus*), the chestnut seedeater (*Sporophila cinnamomea*) and the black-and-white monjita (*Xolmis dominicanus*). Quebrada de los Cuervos was the first place listed as a protected area under the National System of Protected Areas, in 2008. In September 2016, a public hearing was held on a proposal by the business enterprise Cementos del Plata, S.A., to extract limestone in an area about two kilometres away from Quebrada de los Cuervos. A public hearing on the proposal was held in September 2016, and the project received a permit from the Ministry of Housing, Land Management and the Environment in January 2017.

54. Civil society organizations expressed serious concerns that the time provided by the authorities was not enough to conduct a thorough analysis of the impact the project may have on the environment. Furthermore, they complained that despite their efforts to highlight adverse effects on the environment during the public hearing of September 2016 and in the following months, no reaction was received from the Government. In late December 2016, a group of inhabitants reportedly handed a submission with detailed concerns to the Ministry of Housing, Land Management and the Environment, but did not receive any response. In April 2017, the Neighbourhood Council of Quebrada de los Cuervos announced that it would no longer participate in the Specific Advisory Commission, a formal participation space designed by the Government, which allows private landowners, local authorities and social organizations near each protected area in the National System of Protected Areas to give advice in relation to the management of the protected area and its natural resources. While these advisory commissions can play a very important role in facilitating public participation, they can work only if the participants believe that their views are given due weight. The Special Rapporteur is concerned that it did not appear to work effectively in this case.[20]

55. The relationship between those who live in and near protected areas and the government agencies responsible for administering them should be one of mutual support (see A/HRC/25/53/Add.1, para. 44). Moreover, mining permits should result in benefits not only for the country as a whole, but for the local communities most directly affected by the mining. The Government must impose restrictions that ensure that mining activities proceed only if these requirements are met. In relation to Quedabra de los Cuervos, the Government should take steps to rebuild a relationship of trust with the local communities, including by demonstrating that no projects will be allowed to go forward without adequate environmental impact assessment and safeguards to protect against environmental harm, including in particular harm to this protected area.

56. Closely related to the right to public participation are the rights to freedom of expression, peaceful assembly and association. The obligations of States to respect and protect these rights[21] encompass the exercise of the rights in relation to environmental matters (see A/HRC/37/59, annex, framework principle 5). Restrictions on the exercise of these rights are permitted only if they are provided by law and necessary in a democratic society to protect the rights of others, or to protect national security, public order, or public health or morals. Any restrictions must be narrowly tailored to avoid undermining the rights. For example, blanket prohibitions on protests surrounding the operations of mining, forestry or other resource extraction companies are unjustifiable (see A/HRC/29/25, para. 22).

57. On 20 March 2017, shortly before the Special Rapporteur's visit, the President of the Republic issued Decree No. 127/999 regulating the public use of streets. The decree authorizes the Ministry of the Interior to take the necessary measures to preserve the public use of streets, roads or highways whose traffic may be obstructed or interrupted by persons, vehicles or objects of any nature. Serious concerns were expressed that the decree might be

[20] The dispute has continued since the Special Rapporteur's visit. On 1 June 2017, the Neighborhood Council of Quebrada de los Cuervos (which includes the Cooperativa Agraria Quebrada de los Cuervos, the Sociedad de Fomento Rural del Lugar and local inhabitants) presented a petition to the Ministry of Housing, Land Management and the Environment, demanding the annulment of the decision taken in January 2017.

[21] See Universal Declaration of Human Rights, arts. 19–20; International Covenant on Civil and Political Rights, arts. 19 and 21–22.

interpreted to authorize the police to clear streets and roads of peaceful protestors, without any judicial oversight, which would interfere with the exercise of the rights to freedom of expression, peaceful assembly and association.

58. In response, the National Human Rights Institution issued a statement recalling the applicable norms under international human rights law, including in particular the International Covenant on Civil and Political Rights. The Institution underlined that any limitation on the right to freedom of peaceful assembly must be prescribed by law and must be reasonable and appropriate to the objective pursued, which is only to ensure that the demonstration is peaceful and that protection is provided to all persons, including the protesters themselves. It stressed that such measures should never result in the criminalization of those who are demonstrating in a peaceful manner.[22]

59. The Special Rapporteur strongly supports the statement of the National Human Rights Institution. As the Human Rights Committee, the body charged with overseeing the International Covenant on Civil and Political Rights, has stated, in adopting laws providing for restrictions, States should always be guided by the principle that the restrictions must not impair the essence of the right; the relation between right and restriction, between norm and exception, must not be reversed.[23] In a joint report on the proper management of assemblies, issued in 2016, the Special Rapporteur on the rights to freedom of peaceful assembly and of association and the Special Rapporteur on extrajudicial, summary or arbitrary executions made clear that assemblies are a use of public space that is no less legitimate than commercial activity or the movement of vehicles and pedestrian traffic. A certain level of disruption to ordinary life caused by assemblies, including disruption of traffic, annoyance and even harm to commercial activities, must be tolerated if the right to freedom of peaceful assembly is not to be deprived of substance (see A/HRC/31/66, para. 32). Implementation of Decree No. 127/999 must be carefully monitored to ensure that the decree does not provide a basis for actions interfering with the rights to freedom of expression and of peaceful assembly.

D. Access to effective remedies

60. States should provide for access to effective remedies for violations of human rights and domestic laws relating to the environment (see A/HRC/37/59, annex, framework principle 10). States have obligations under human rights law to provide for access to judicial and other procedures for effective remedies for violations of human rights,[24] and those obligations encompass remedies for violations of human rights relating to the environment, including the rights of freedom of expression, association and peaceful assembly, access to environmental information and public participation in environmental decision-making.

61. In addition, each State should ensure that individuals have access to effective remedies for failures to comply with the laws of the State relating to the environment. Access to effective remedies is particularly important for groups that are disproportionately affected by environmental harm. For environmental standards to be effective, Governments must comply with them in their own operations, and they must also monitor and effectively enforce compliance with the standards by preventing, investigating, punishing and redressing violations of the standards by business enterprises and other private actors, as well as by governmental authorities (ibid., annex, framework principle 12). However strong an environmental standard may be on paper, it is meaningless if it exists only on paper and not in practice.

62. As the Special Rapporteur on the human rights to safe drinking water and sanitation has emphasized, successful regulation depends not only on standard-setting, but also on

[22] See http://inddhh.gub.uy/declaracion-de-la-institucion-nacional-de-derechos-humanos-y-defensoria-del-pueblo-inddhh-respecto-al-decreto-no-762017-de-20-de-marzo-de-2017/.

[23] See Human Rights Committee, general comment No. 27 (1999) on freedom of movement, para. 13.

[24] See, for example, Universal Declaration of Human Rights, art. 8; International Covenant on Civil and Political Rights, art. 2 (3).

strong independent regulators. Regulators need to have the capacity, in terms of human resources, skills, funding and independence from interference, to monitor whether regulations are being complied with, carry out on-site inspections, and impose fines and penalties in the case of breaches (see A/68/264, para. 52). States should implement training programmes for law enforcement and judicial officers to enable them to understand and enforce environmental laws, and they should take effective steps to prevent corruption from undermining the implementation and enforcement of environmental laws.

63. The Government of Uruguay has several administrative tools to promote compliance with environmental laws and regulations, and access by individuals to effective remedies for violations. Of particular importance is a system that allows environmental complaints to be filed with the Ministry of Housing, Land Management and the Environment.[25] The complaints can be submitted online at the website of the Ministry, through telephone calls, or through meetings in person. According to the Ministry, the number of complaints it receives has increased in recent years, and more than 450 complaints were received in 2016 alone.

64. Within the Ministry, the National Environment Directorate has the authority to respond to complaints by, among other things, carrying out inspections and conducting laboratory analysis (for example, of chemicals alleged to cause environmental harm). When it finds violations of the law, the Ministry may impose warnings, confiscate and/or destroy vehicles, instruments and devices directly linked to the commission of the offence, or even suspend the offender's authorizations or permits, for up to 180 days (Law No. 17.283, art. 15). The Ministry may also request the assistance of the police if necessary (Law No. 16.170, art. 453). The original complainants should be notified of the results of the investigation. If a complaint does not fall within its mandate, the Directorate forwards the request to the competent authorities, which may include municipal governments. Several other ministries have adopted their own grievance mechanisms for individuals reporting violations of the applicable laws and regulations, including through online systems.

65. While these mechanisms appear to provide a variety of opportunities for access to effective remedies, the Special Rapporteur heard a number of complaints about them during his visit. One problem is that the large number of authorities at the national and local levels with potential responsibility for environmental problems may be confusing for the public. Individuals outside Government may not know where to send their initial communications, and even within the Government, it may not always be clear which office is responsible for handling them. For example, environmental harm caused by chemicals is often within the authority of the Ministry of Livestock, Agriculture and Fisheries, not the Ministry of Housing, Land Management and the Environment, but the public generally sends its complaints to the latter.

66. In addition, the Special Rapporteur heard from many interlocutors that the complaint procedure can be very slow and unresponsive. He heard descriptions of complaints that received a response only months after being submitted, or not at all. The National Human Rights Institution also receives submissions on human rights, some of which relate to environmental matters. The Institution informed the Special Rapporteur that often the submissions that it receives indicate excessive delays in the administrative procedures for addressing and resolving environmental complaints.

67. In light of these concerns, the Special Rapporteur believes that the Government should take steps to make its environmental complaint procedures more transparent and responsive. Specifically, the Special Rapporteur invites the Government to consider the adoption of an environmental ombudsperson, or an equivalent mechanism, with the mandate to receive all environmentally related complaints or inquiries from the public. Creating this type of "green window" for the public to send messages to the Government has several advantages.

68. First, it would dispel the confusion among the public about how to contact the Government on environmental issues. Rather than having to decide which of several

[25] See www.mvotma.gub.uy/denuncias-ambiente.html.

agencies has the most relevant mandate, concerned members of the public could simply send their message to the environmental ombudsperson. The Government could publicize the contact information through its websites and other media.

69. Second, the ombudsperson would have the expertise to know where to direct the communication within the Government. To be clear, the ombudsperson would not replace existing ministries or offices or conduct investigations itself. The relevant experts would remain where they are within the Government. The role of the ombudsperson would be primarily to act as a conduit between the public and the relevant agencies.

70. Third, the ombudsperson could also receive questions from the public. Not all communications from the public are complaints; sometimes, members of the public are seeking environmental information held by the Government, but are unable to find it because they do not know where it is held within the Government or how to access it. Again, the office of the ombudsperson would be able to send the relevant query to the appropriate recipient and facilitate the delivery of responses to the person or persons who raised the question.

71. Finally, the ombudsperson would be ideally situated to ensure that communications are addressed in a timely way by the appropriate agency, and to follow up and, if necessary, encourage the agency to respond more quickly. The ombudsperson should report regularly to the public on the number of communications received and on the actions taken in response to the communications.[26]

72. More generally, the Special Rapporteur also heard concerns about enforcement of the environmental laws at the judicial level. Administrative complaint mechanisms, by themselves, are often not enough to ensure compliance with environmental laws. It is necessary, therefore, to provide for effective access to the courts. However, the Special Rapporteur heard concerns that recourse to the judicial system is often too expensive and time-consuming. While these problems are, unfortunately, prevalent in much of the world, the Government nevertheless can and should take steps to facilitate access to courts, including by ensuring that plaintiffs do not face unreasonable or excessive costs or other obstacles to bringing cases.

73. It is also critical that the Government itself fulfils its responsibilities to enforce environmental laws by bringing enforcement actions, in appropriate cases. In this context, the Special Rapporteur applauds two recent efforts, in particular. First, the Attorney General has created a Specialized Unit on the Environment, which should have sufficient resources and the expertise to prosecute environmental violations. Second, the Government has proposed a law that would establish, for the first time, that certain acts constitute environmental crimes and may be punished accordingly.

V. Conclusions and recommendations

74. **The vigorous and continuous efforts of the authorities to adopt a robust legal and institutional framework for environmental protection, including at the constitutional level, demonstrate that Uruguay has a long-standing commitment to a healthy environment and sustainable development. In particular, Uruguay has made remarkable efforts to reduce its carbon emissions over the past decade. The Special Rapporteur commends Uruguay for its good practices in this area, and encourages it to continue to share its experiences with other States.**

75. **At the same time, Uruguay faces challenges in the continued pursuit of sustainable development. It must ensure that as it increases its production of agriculture and livestock, it protects the environment and the human rights of those who depend upon it. To that end, it is of particular importance that it respects the**

[26] To be clear, the Special Rapporteur does not suggest that the National Human Rights Institution should be tasked with this mandate. While the Institution should continue to be available to receive and consider submissions alleging environmentally related human rights abuses, the Institution cannot take the place of effective administration complaint procedures.

rights of the public to have access to environmental information, to participate in decision-making related to the environment and to have access to effective remedies for environmental harm. The Special Rapporteur hopes that the following recommendations will help the Government to continue to promote human rights relating to the environment in an effective, comprehensive and long-lasting manner.

General recommendations

76. **The Government should provide increased financial and technical support to the National Human Rights Institution so that it can continue to address the relationship between human rights and environmental issues.**

77. **The National Environmental Plan provides an important opportunity for Uruguay to demonstrate its continuing commitment to human rights and to environmental protection. Both the development and the implementation of the plan should reflect a rights-based approach to environmental protection.**

78. **As the Special Rapporteur has previously explained, the full enjoyment of human rights, including the rights to life, health, food and water, depends on the services provided by ecosystems. The provision of ecosystem services depends on the health and sustainability of ecosystems, which in turn depend on biodiversity. The full enjoyment of human rights thus depends on biodiversity, and the degradation and loss of biodiversity undermine the ability of human beings to enjoy their human rights (see A/HRC/34/49, para. 5). Therefore, it is critical that Governments fulfil their obligations and commitments with respect to the protection of biodiversity. In this respect, the Special Rapporteur urges Uruguay to take the steps necessary to meet its goal, as stated in its National Strategy for the Conservation and Sustainable Use of Biological Diversity 2016–2020, of conserving at least 15 per cent of its continental area and 2 per cent of its marine surface, by means of its National System of Protected Areas and other conservation measures.**

79. **Uruguay should fulfil its commitment to ratify the International Labour Organization Indigenous and Tribal Peoples Convention, 1989 (No. 169). Although indigenous peoples constitute a very small percentage of the Uruguayan population, ratifying the Convention would nevertheless provide greater protection to indigenous peoples against the persistence of stereotypes and prejudice against them. Ratification would also highlight the importance of the treaty in the international context, by moving it closer to universal membership.**

80. **The Special Rapporteur recognizes that Uruguay has played a very positive role in working towards a strong regional agreement on access to environmental information, public participation in environmental decision-making and access to justice in environmental matters, and it encourages Uruguay to continue to work for a binding legal treaty that includes effective mechanisms to promote and facilitate compliance and share good practices.**

Recommendations on access to information

81. **The Government should ensure that its environmental report is published annually, in accordance with the law.**

82. **The Government should take steps to make environmental information more easily accessible by the public. In particular, as noted above, the public should be able to readily find information about water quality, both at the tap and in lakes and rivers.**

83. **Additional measures may be necessary to make environmental information accessible to those who are in particularly vulnerable situations or who are susceptible to environmental harm, including people living in poverty. Moreover, the Government should ensure that it disaggregates environmental and health data across dimensions such as geography, gender and age.**

84. **The Government should continue to carry out, and build on, its environmental training and information programmes, especially in rural or underserved areas.**

85. **The Government should ensure that the National Environmental Observatory receives adequate human and financial resources to develop, update and disseminate environmental information, including by strengthening coordination among the different agencies and departments with relevant information.**

86. **The Government should ensure that all proposals to carry out or approve projects that may have significant environmental effects are subject to careful, thorough assessment of their environmental impacts, including in particular the impacts that may interfere with the full enjoyment of human rights, such as the rights to life and health. The assessment should be undertaken as early as possible in the decision-making process, provide meaningful opportunities for the public to participate, and address all potential environmental impacts, including transboundary effects and cumulative effects that may occur as a result of the interaction of the proposal with other activities. The assessment should result in a public report that clearly describes the impacts, and the assessment and the final decision should be subject to review by a court or other independent body.**

Recommendations on public participation

87. **Uruguay should continue and build on its good practices with respect to public participation in the development of national plans and policies, by ensuring that the public has meaningful opportunities to participate in the development of the National Environment Plan for Sustainable Development. The Government should also, as appropriate, facilitate and take account of input from the National Human Rights Institution on the plan.**

88. **The Special Rapporteur urges the Government to rebuild a strong relationship with the members of local communities concerned about the impact of mining and other activities in the Quebrada de los Cuervos protected area. With a view to ensuring that the advisory commission is again able to perform its functions with full participation from the local stakeholders, the Government should take the steps necessary to demonstrate to the public that no potentially harmful activities will be allowed to go forward without adequate environmental impact assessment and safeguards to protect against environmental harm, including in particular harm to this protected area.**

89. **The Government should ensure that Decree No. 127/999, on the regulation of the public use of streets, is implemented in accordance with the obligations of Uruguay under international human rights law. In particular, it should not be interpreted to authorize measures that violate the rights to freedom of expression, association and peaceful assembly, including by punishing people for participating in peaceful demonstrations.**

Recommendations on access to effective remedies

90. **The Special Rapporteur encourages the Government to make its environmental communications procedures more transparent and responsive, by establishing an environmental ombudsperson, or an equivalent mechanism, with the mandate to receive all environmentally related complaints or inquiries from the public, to direct them to the appropriate office and to follow up to ensure that they receive responses in an appropriate, timely manner.**

91. **The Government should review the potential obstacles plaintiffs may face to bringing environmental cases to the courts, and take steps to ensure that they do not face unreasonable or excessive costs or other obstacles to bringing such cases.**

92. **The Government should ensure that the new Specialized Unit on the Environment has sufficient resources and the expertise to prosecute environmental violations.**

93. **Uruguay should proceed expeditiously to enact the proposed law on environmental crimes.**